

§ 201.250

17 CFR Ch. II (4–1–14 Edition)

(ii) Any right to claim bias or pre-judgment by the Commission based on the consideration of or discussions concerning settlement of all or any part of the proceeding.

(6) If the Commission rejects the offer of settlement, the person making the offer shall be notified of the Commission's action and the offer of settlement shall be deemed withdrawn. The rejected offer shall not constitute a part of the record in any proceeding against the person making the offer, provided, however, that rejection of an offer of settlement does not affect the continued validity of waivers pursuant to paragraph (c)(5) of this section with respect to any discussions concerning the rejected offer of settlement.

(7) Final acceptance of any offer of settlement will occur only upon the issuance of findings and an order by the Commission.

§ 201.250 Motion for summary disposition.

(a) After a respondent's answer has been filed and, in an enforcement or a disciplinary proceeding, documents have been made available to that respondent for inspection and copying pursuant to § 201.230, the respondent, or the interested division may make a motion for summary disposition of any or all allegations of the order instituting proceedings with respect to that respondent. If the interested division has not completed presentation of its case in chief, a motion for summary disposition shall be made only with leave of the hearing officer. The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by that party, by uncontested affidavits, or by facts officially noted pursuant to § 201.323.

(b) The hearing officer shall promptly grant or deny the motion for summary disposition or shall defer decision on the motion. The hearing officer may grant the motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law. If it appears that a party, for good cause shown, cannot present by affi-

davit prior to hearing facts essential to justify opposition to the motion, the hearing officer shall deny or defer the motion. A hearing officer's decision to deny leave to file a motion for summary disposition is not subject to interlocutory appeal.

(c) The motion for summary disposition, together with any supporting memorandum of points and authorities (exclusive of any declarations, affidavits, or attachments), shall not exceed 9,800 words. Requests for leave to file motions and accompanying documents in excess of 9,800 words are disfavored. A motion that does not, together with any accompanying memorandum of points and authorities, exceed 35 pages in length, inclusive of pleadings incorporated by reference (but excluding any declarations, affidavits, or attachments) is presumptively considered to contain no more than 9,800 words. Any motion that exceeds these page limits must include a certificate by the attorney, or an unrepresented party, stating that the brief complies with the length limitation set forth in this paragraph and stating the number of words in the motion. The person preparing the certificate may rely on the word count of a word-processing program to prepare the document.

[60 FR 32796, June 23, 1995, as amended at 70 FR 72570, Dec. 5, 2005]

RULES REGARDING HEARINGS

§ 201.300 Hearings.

Hearings for the purpose of taking evidence shall be held only upon order of the Commission. All hearings shall be conducted in a fair, impartial, expeditious and orderly manner.

§ 201.301 Hearings to be public.

All hearings, except hearings on applications for confidential treatment filed pursuant to § 201.190, hearings held to consider a motion for a protective order pursuant to § 201.322, and hearings on *ex parte* application for a temporary cease-and-desist order, shall be public unless otherwise ordered by the Commission on its own motion or the motion of a party. No hearing shall be nonpublic where all respondents request that the hearing be made public.